

Executive Summary – Enforcement Matter – Case No. 45999

City of Eagle Lake

RN102181195

Docket No. 2013-0118-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Eagle Lake WWTF, located approximately 400 feet southeast of the intersection of U.S. Highway 90A bypass and McCarty Avenue, being also 0.5 mile northwest of the intersection of Farm-to-Market Road 102 and U.S. Highway 90A, Colorado County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 31, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,562

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$999

Total Due to General Revenue: \$22,563

Payment Plan: 23 payments of \$981 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 45999
City of Eagle Lake
RN102181195
Docket No. 2013-0118-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: December 5, 2012
Date(s) of NOE(s): January 10, 2013

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010505001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010505001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Nick Nevid, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2612; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Keith H. Webb, City Manager, P.O. Box 38, Eagle Lake, Texas 77434
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	14-Jan-2013	Screening	14-Jan-2013	EPA Due	
	PCW	15-Feb-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Eagle Lake		
Reg. Ent. Ref. No.	RN102181195		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45999	No. of Violations	2
Docket No.	2013-0118-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Nick Nevid
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$16,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	45.0%	Enhancement	Subtotals 2, 3, & 7	\$7,312
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Notes	Enhancement for four months of self-reported effluent violations, one NOV with same/similar violations, and one order with denial language.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$641	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$23,562
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$23,562
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$23,562
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$23,562
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Screening Date 14-Jan-2013

Docket No. 2013-0118-MWD-E

PCW

Respondent City of Eagle Lake

Policy Revision 3 (September 2011)

Case ID No. 45999

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102181195

Media [Statute] Water Quality

Enf. Coordinator Nick Nevid

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four months of self-reported effluent violations, one NOV with same/similar violations, and one order with denial language.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 45%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 45%

Screening Date 14-Jan-2013

Docket No. 2013-0118-MWD-E

PCW

Respondent City of Eagle Lake

Policy Revision 3 (September 2011)

Case ID No. 45999

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102181195

Media [Statute] Water Quality

Enf. Coordinator Nick Nevid

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010505001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on December 5, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	X		
Potential			

Percent 30.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended for the months of August 2012 and September 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$641

Violation Final Penalty Total \$21,750

This violation Final Assessed Penalty (adjusted for limits) \$21,750

Economic Benefit Worksheet

Respondent City of Eagle Lake

Case ID No. 45999

Reg. Ent. Reference No. RN102181195

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	30-Jun-2012	11-Oct-2013	1.28	\$641	\$0	\$641

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility and return to compliance. Date required is the initial date of noncompliance. Final date is the anticipated date of compliance with effluent limits.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$641

Screening Date 14-Jan-2013

Docket No. 2013-0118-MWD-E

PCW

Respondent City of Eagle Lake

Policy Revision 3 (September 2011)

Case ID No. 45999

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102181195

Media [Statute] Water Quality

Enf. Coordinator Nick Nevid

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010505001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on December 5, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the months of June 2012 and July 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,813

This violation Final Assessed Penalty (adjusted for limits) \$1,813

Economic Benefit Worksheet

Respondent City of Eagle Lake

Case ID No. 45999

Reg. Ent. Reference No. RN102181195

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	\$0	\$0
Record Keeping System			0.00	\$0	\$0	\$0
Training/Sampling			0.00	\$0	\$0	\$0
Remediation/Disposal			0.00	\$0	\$0	\$0
Permit Costs			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

City of Eagle Lake
TPDES Permit No. WQ0010505001
Docket No. 2013-0118-MWD-E

Effluent Violation Table				
Permitted Effluent Limits	Monitoring Period			
	June 2012	July 2012	August 2012	September 2012
Ammonia Nitrogen Daily Average Concentration (Limit = 2 mg/L)	2.23	6.23	20.2	18.55
Ammonia Nitrogen Daily Maximum Concentration (Limit = 10 mg/L)	c	13	23.5	24.8
Ammonia Nitrogen Daily Average Loading (Limit = 13 lbs/day)	c	19.42	58.4	52.33

mg/L = milligrams per liter

lbs/day = pounds per day

c = compliant

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Compliance History Report

PUBLISHED Compliance History Report for CN600736185, RN102181195, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600736185, City of Eagle Lake	Classification:	SATISFACTORY	Rating:	2.60
Regulated Entity:	RN102181195, CITY OF EAGLE LAKE	Classification:	SATISFACTORY	Rating:	2.60
Complexity Points:	7	Repeat Violator:	NO		
CH Group:	08 - Sewage Treatment Facilities				
Location:	Located approximately 400 feet southeast of the intersection of U.S. Highway 90A bypass and McCarty Avenue, being also 0.5 mile northwest of the intersection of Farm-to-Market Road 102 and U.S. Highway 90A in Colorado County, Texas 77434				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):					
WASTEWATER PERMIT	WQ0010505001	WASTEWATER EPA ID	TX0072885		
WASTEWATER LICENSING LICENSE	WQ0010505001				
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	January 14, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	January 14, 2008 to January 14, 2013				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Nick Nevid		Phone:	(512) 239-2612	

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | |
|---|---|--|
| 1 | Effective Date: 06/18/2010 | ADMINORDER 2009-1911-MWD-E (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| | Rqmt Prov:Final Effluent Limitations & Monitoring PERMIT | |
| | Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 22, 2008	(674616)
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Item 2	February 26, 2008	(674615)
Item 3	April 22, 2008	(692947)
Item 4	May 19, 2008	(692948)
Item 5	June 30, 2008	(714136)
Item 6	September 02, 2008	(714138)
Item 7	October 29, 2008	(730153)
Item 8	November 20, 2008	(730154)
Item 9	December 15, 2008	(730155)
Item 10	January 30, 2009	(753363)
Item 11	February 24, 2009	(753362)
Item 12	March 19, 2009	(770853)
Item 13	April 23, 2009	(770854)
Item 14	May 20, 2009	(770855)
Item 15	October 23, 2009	(927776)
Item 16	November 17, 2009	(927777)
Item 17	December 28, 2009	(927778)
Item 18	January 15, 2010	(927779)
Item 19	February 24, 2010	(812422)
Item 20	March 22, 2010	(833582)
Item 21	April 19, 2010	(833583)
Item 22	May 20, 2010	(833584)
Item 23	June 18, 2010	(847101)
Item 24	August 26, 2010	(867896)
Item 25	September 23, 2010	(874839)
Item 26	October 04, 2010	(874838)
Item 27	October 27, 2010	(882432)
Item 28	November 30, 2010	(888875)
Item 29	December 20, 2010	(897236)
Item 30	January 24, 2011	(991547)
Item 31	January 27, 2011	(903139)
Item 32	February 22, 2011	(910059)
Item 33	March 21, 2011	(917259)
Item 34	April 25, 2011	(927771)
Item 35	May 23, 2011	(938952)
Item 36	June 24, 2011	(946332)
Item 37	September 26, 2011	(966281)
Item 38	October 27, 2011	(972297)
Item 39	November 28, 2011	(978456)
Item 40	December 20, 2011	(985267)
Item 41	February 27, 2012	(998894)
Item 42	March 23, 2012	(1004421)
Item 43	April 20, 2012	(1010992)
Item 44	May 29, 2012	(1017356)
Item 45	June 21, 2012	(1025157)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 06/30/2012 CN600736185
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 2 Date: 07/31/2012 CN600736185
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

3	Date:	08/31/2012	CN600736185
	Self Report?	YES	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	

4	Date:	09/30/2012	CN600736185
	Self Report?	YES	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	

5	Date:	12/17/2012	(1050299)	CN600736185
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. WQ0010505001, EL&MR PERMIT		
	Description:	Failed to maintain compliance with the permit limits. Specifically, during the record review period of October 2011 to October 2012, the two-hour peak flow limit of 1563 gallons per minute (gpm) and the daily average flow of 0.75 million gallons per day (mgd) was exceeded 10 times. See the attached table. Compliance with the permit limits must be maintained.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. WQ0010505001, EL&MR PERMIT		
	Description:	Failed to maintain compliance with the permitted effluent limits. Specifically, during the record review period of October 2011 to October 2012, 2 violations of the permitted limit of 10 mg/L for ammonia-nitrogen (NH3-N) were noted. The NH3-N sample for September 11, 2012 was 14.2 mg/L and the NH3-N sample for September 25, 2012 was 24.8 mg/L. Compliance with the permitted effluent limits must be maintained.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. WQ0010505001, EL&MR PERMIT		
	Description:	Failed to maintain compliance with the permitted effluent limits. Specifically, the grab sample collected during the investigation was not compliant with the single grab limit of 15 mg/L for ammonia-nitrogen (NH3-N). The result of the NH3-N analysis was 16.7 mg/L. Compliance with the permitted effluent limits must be maintained.		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF EAGLE LAKE
RN102181195**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0118-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Eagle Lake ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 400 feet southeast of the intersection of United States Highway 90A bypass and McCarty Avenue, being also 0.5 mile northwest of the intersection of Farm-to-Market Road 102 and United States Highway 90A in Colorado County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review conducted on December 5, 2012, TCEQ staff documented the following from self-reported discharge monitoring reports ("DMRs"):

Effluent Violation Table				
Permitted Effluent Limits	Monitoring Period			
	June 2012	July 2012	August 2012	September 2012
Ammonia Nitrogen Daily Average Concentration (Limit = 2 mg/L)	2.23	6.23	20.2	18.55
Ammonia Nitrogen Daily Maximum Concentration (Limit = 10 mg/L)	c	13	23.5	24.8
Ammonia Nitrogen Daily Average Loading (Limit = 13 lbs/day)	c	19.42	58.4	52.33

mg/L = milligrams per liter
lbs/day = pounds per day
c = compliant

4. The Respondent received notice of the violations on January 14, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010505001, Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for

violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Twenty-Three Thousand Five Hundred Sixty-Two Dollars (\$23,562) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Nine Hundred Ninety-Nine Dollars (\$999) of the administrative penalty. The remaining amount of Twenty-Two Thousand Five Hundred Sixty-Three Dollars (\$22,563) of the administrative penalty shall be payable in 23 monthly payments of Nine Hundred Eighty-One Dollars (\$981) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Three Thousand Five Hundred Sixty-Two Dollars (\$23,562) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Eagle Lake, Docket No. 2013-0118-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010505001, including specific corrective actions that were

implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not


effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

6/7/13
Date

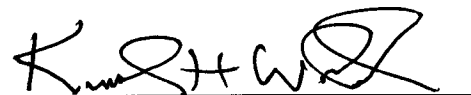
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Eagle Lake. I am authorized to agree to the attached Agreed Order on behalf of the City of Eagle Lake, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Eagle Lake waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

3/6/2013
Date

Keith H. Webb

Name (Printed or typed)
Authorized Representative of
City of Eagle Lake

CITY MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.